

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 290  
PROPOSED COMMITTEE SUBSTITUTE S290-PCS15361-TQf-13

Short Title: Distiller Regulatory Reform Bill.

(Public)

Sponsors:

Referred to:

March 19, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW A DISTILLERY TO SELL MALT BEVERAGES AND UNFORTIFIED AND FORTIFIED WINE; TO ALLOW CERTAIN ORDERS OF ELIGIBLE DISTILLERY PRODUCTS; TO REVISE THE LAW GOVERNING THE SALE OF SPIRITUOUS LIQUOR BY A DISTILLERY TO VISITORS FOR CONSUMPTION OFF THE PREMISES; TO ALLOW A DISTILLERY TO ISSUE PURCHASE-TRANSPORTATION PERMITS FOR SPIRITUOUS LIQUOR SOLD BY THE DISTILLERY; AND TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT AN ABC STORE.

The General Assembly of North Carolina enacts:

**PART I. ALLOW DISTILLERIES TO SELL MALT BEVERAGES AND UNFORTIFIED AND FORTIFIED WINE**

**SECTION 1.(a)** G.S. 18B-1001 reads as rewritten:

**"§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

...

k. The holder of a distillery permit authorized under G.S. 18B-1105.

...

- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for



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consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

l. The holder of a distillery permit authorized under G.S. 18B-1105.

...  
(5)

On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...

g. The holder of a distillery permit authorized under G.S. 18B-1105.

1 ...  
2 (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail  
3 sale of mixed beverages for consumption on the premises. The permit also  
4 authorizes a mixed beverages permittee (i) to obtain a purchase-transportation  
5 permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous  
6 liquor permit under subdivision (20) of this section, and (iii) to use for culinary  
7 purposes spirituous liquor lawfully purchased for use in mixed beverages. The  
8 permit may be issued for any of the following:

9 ...  
10 i. The holder of a distillery permit authorized under G.S. 18B-1105.

11 ...."

12 **SECTION 1.(b)** G.S. 18B-1105(a) is amended by adding a new subdivision to read:

13 "(6) Sell malt beverages, unfortified wine, and fortified wine, for consumption on  
14 the premises upon obtaining the appropriate permit under G.S. 18B-1001."

## 16 **PART II. ALLOW DISTILLERIES TO SELL MIXED BEVERAGES**

17 **SECTION 2.** G.S. 18B-1105(a) is amended by adding a new subdivision to read:

18 "(4a) In an area where the sale of mixed beverages is authorized by law, sell mixed  
19 beverages for consumption on the premises. If a distillery elects to sell mixed  
20 beverages containing spirituous liquor other than that produced at the  
21 distillery, the distillery shall obtain a mixed beverages permit pursuant to  
22 G.S. 18B-1001."

## 24 **PART III. ALLOW CERTAIN ORDERS OF ELIGIBLE DISTILLERY PRODUCTS**

25 **SECTION 3.(a)** G.S. 18B-800 is amended by adding two new subsections to read:

26 "(c1) Special Orders of Special Items. – Through the process established by rule of the  
27 Commission for special orders of spirituous liquor that are on the special item list approved by  
28 the Commission, ABC stores shall allow the purchase of individual bottles of spirituous liquor.  
29 ABC stores may sell in store any bottles it receives from a special item case in excess of what  
30 was purchased by the requesting customer.

31 (c2) Orders of Eligible Distillery Products by Mixed Beverages Permittees. – A local  
32 board shall fulfill an order by a mixed beverages permittee for individual bottles or cases of  
33 spirituous liquor produced by an eligible distillery that are listed as a regular code item for sale  
34 in the State. If a local board cannot fulfill an order of a mixed beverages permittee for individual  
35 bottles or cases of spirituous liquor produced by an eligible distillery that are listed as a regular  
36 code item for sale in the State because the product ordered is not in the local board's stock  
37 inventory or the order cannot otherwise be fulfilled within the time period requested by the  
38 permittee, the local board shall notify the Commission within 48 hours of the request for the  
39 order and request authorization for direct shipment. The Commission shall then determine if the  
40 eligible distillery desires to directly ship the ordered product directly to the local board, and if so  
41 the Commission shall authorize the eligible distillery to ship the spirituous liquor ordered to the  
42 local board for the fulfillment of the mixed beverages permittee's order. Merchandise authorized  
43 to be shipped by direct shipment under this subsection shall be consigned by the State ABC  
44 warehouse to the distiller's account in care of the local board. The local board shall acknowledge  
45 receipt of the merchandise on the shipping documents and forward them to the State ABC  
46 warehouse for processing through the accounting system as though the merchandise were  
47 shipped from the State ABC warehouse. As used in this subsection, an "eligible distillery" is a  
48 distillery (i) that sells, to consumers at the distillery, to exporters, to local boards, and to private  
49 or public agencies or establishments of other states or nations, fewer than 10,000 proof gallons  
50 of in-house brand spirituous liquors distilled and manufactured by it at the permit holder's  
51 distillery per year, and (ii) that is either the holder of a distillery permit pursuant to G.S. 18B-1105

1 or is a business located outside the State that is licensed or permitted to manufacture spirituous  
2 liquor in the jurisdiction where the business is located and whose products are lawfully sold in  
3 this State."

4 **SECTION 3.(b)** In order to facilitate the sale of any remainders of a special item  
5 case, increase customer access to products, and allow local ABC boards to more effectively  
6 manage inventory, the ABC Commission shall develop and implement an Internet-based system  
7 to facilitate the sale and purchase of regular approved list items and special order list items of  
8 spirituous liquor by and among local ABC boards.

9 **SECTION 3.(c)** The ABC Commission shall amend its rules consistent with this  
10 section.

11 **SECTION 3.(d)** Subsection (a) of this section becomes effective July 1, 2019, and  
12 applies to special orders placed on or after that date. The remainder of this section is effective  
13 when it becomes law.

14  
15 **PART IV. REVISE LAW AUTHORIZING DISTILLERS TO SELL SPIRITUOUS**  
16 **LIQUOR DISTILLED BY THE DISTILLER FOR CONSUMPTION OFF THE**  
17 **PREMISES**

18 **SECTION 4.(a)** G.S. 18B-1105(a)(4) reads as rewritten:

19 "(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors  
20 who tour the distillery for consumption off the premises. Sales under this  
21 subdivision are allowed only in a county where the establishment of a county  
22 or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and  
23 are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor  
24 sold under this subdivision shall (i) be listed as a code item for sale in the  
25 State, (ii) be sold at the price set by the Commission for the code item pursuant  
26 to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the  
27 words "North Carolina Distillery Tour Commemorative Spirit" in addition to  
28 any other labeling requirements set by law. ~~Consumers purchasing spirituous~~  
29 ~~liquor under this subdivision are limited to purchasing, and the selling~~  
30 ~~distillery is limited to selling to each consumer, no more than five bottles of~~  
31 ~~spirituous liquor per 12 month period. The distillery shall use a commonly~~  
32 ~~adopted standard point of sale system to maintain searchable electronic~~  
33 ~~records captured at the point of sale, to include the purchaser's name, drivers~~  
34 ~~license number, and date of birth for at least 12 months from the date of~~  
35 ~~purchase. The Commission shall adopt rules regulating the retail sale of~~  
36 ~~spirituous liquor under this subdivision."~~

37 **SECTION 4.(b)** G.S. 18B-804(b1) reads as rewritten:

38 "(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit  
39 sells spirituous liquor distilled at the distillery pursuant to ~~G.S. 18B-1105(a)(4),~~ G.S. 18B-1105,  
40 the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of  
41 this section. However, the holder of the distillery permit shall not be required to remit the  
42 components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection  
43 (b) of this section."

44 **SECTION 4.(c)** G.S. 18B-1116(a) reads as rewritten:

45 "(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any  
46 alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly  
47 to:

48 ...

49 A brewery qualifying under subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the  
50 provisions of this section concerning financial interests in, and lending or giving things of value  
51 to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on

1 its premises or other retail locations allowed under G.S. 18B-1104(a)(8). The brewery is subject  
2 to the provisions of this subsection, however, with respect to its transactions with all other  
3 wholesalers and retailers.

4 A distillery is not subject to the provisions of this section concerning financial interests in,  
5 and lending or giving things of value to, a wholesaler or retailer with respect to the distillery's  
6 transactions with the retail business allowed on its premises under G.S. 18B-1105(a)(4). The  
7 distillery is subject to the provisions of this subsection, however, with respect to its transactions  
8 with all other wholesalers and retailers."

9 **SECTION 4.(d)** This section becomes effective July 1, 2019, and applies to sales  
10 made on or after that date.

11  
12 **PART V. ALLOW DISTILLERIES TO ISSUE PURCHASE-TRANSPORTATION**  
13 **PERMITS FOR SPIRITUOUS LIQUOR SOLD BY THE DISTILLERY**

14 **SECTION 5.(a)** G.S. 18B-403 reads as rewritten:

15 "**§ 18B-403. Purchase-transportation permit.**

16 ...

17 (b) Issuance of Permit. – A purchase-transportation permit may be issued ~~by~~by any of  
18 the following:

19 (1) The local board ~~chairman;~~chairman.

20 (2) A member of the local ~~board;~~board.

21 (3) The general manager or supervisor of the local ~~board;~~ or board.

22 (4) The manager or assistant manager of an ABC store, if he or she is authorized  
23 to issue permits by the local board chairman.

24 (5) For spirituous liquor sold by the distillery only, the owner, or an employee  
25 designated by the owner, of a distillery authorized to sell spirituous liquor  
26 under G.S. 18B-1105.

27 (c) Disqualifications. – A purchase-transportation permit shall not be issued to a person  
28 ~~who~~who meets any of the following requirements:

29 (1) Is not sufficiently identified or known to the ~~issuer;~~issuer.

30 (2) Is known or shown to be an alcoholic or ~~bootlegger;~~bootlegger.

31 (3) Has been convicted within the previous three years of an offense involving  
32 the sale, possession, or transportation of nontaxpaid alcoholic ~~beverages;~~  
33 or beverages.

34 (4) Has been convicted within the previous three years of an offense involving  
35 the sale of alcoholic beverages without a permit.

36 ...

37 (e) Restrictions on Permit. – A purchase may be made only from the store or distillery  
38 named on the permit. One copy of the permit shall be kept by the issuing person, one by the  
39 purchaser, and one by the store or distillery from which the purchase is made. The purchaser  
40 shall display his copy of the permit to any law-enforcement officer upon request. A permit for  
41 the purchase and transportation of spirituous liquor may be issued only by an authorized agent  
42 of the local board for the jurisdiction in which the purchase will be ~~made.~~made or in accordance  
43 with subdivision (5) of subsection (b) of this section.

44 ...."

45 **SECTION 5.(b)** G.S. 18B-404(b) reads as rewritten:

46 "(b) Issuance. – If mixed beverages sales have been approved for an establishment under  
47 G.S. 18B-603(d1) or under G.S. 18B-603(e), or for an establishment located in a township in  
48 which mixed beverages have been approved the purchase-transportation permit for that  
49 establishment for spirituous liquor that will be purchased from an ABC store may be issued by  
50 the local board of any city located in the same county as the establishment, provided the city has  
51 approved the sale of mixed beverages. Otherwise a licensed establishment may obtain a mixed

1 beverages purchase-transportation permit for spirituous liquor that will be purchased from an  
 2 ABC store only from the local board for the jurisdiction in which it is located. If there is no ABC  
 3 store within the establishment's jurisdiction, then the mixed beverages permittee shall obtain a  
 4 mixed beverages purchase-transportation permit for spirituous liquor that will be purchased from  
 5 an ABC store from the nearest and most convenient ABC store. A mixed beverages permittee  
 6 may obtain a mixed beverages purchase-transportation permit for spirituous liquor purchased  
 7 from a distillery in accordance with G.S. 18B-403(b)(5)."

8 **SECTION 5.(c)** G.S. 18B-901(a) reads as rewritten:

9 "(a) Who Issues. – All ABC permits shall be issued by the Commission.  
 10 Purchase-transportation permits shall be issued by local boards or distilleries under  
 11 G.S. 18B-403."

12 **SECTION 5.(d)** G.S. 18B-1007(a) reads as rewritten:

13 "(a) Purchases. – A mixed beverages permittee may purchase spirituous liquor for resale  
 14 as mixed beverages and a guest room cabinet permittee may purchase spirituous liquor for resale  
 15 from a guest room cabinet only at an ABC store designated by a local ~~board~~-board, or a distillery  
 16 when purchasing spirituous liquor directly from the distillery in accordance with G.S. 18B-1105,  
 17 and only with a purchase-transportation permit issued by that local board or distillery under  
 18 G.S. 18B-403 and 18B-404."

19 **SECTION 5.(e)** This section becomes effective July 1, 2019, and applies to  
 20 purchases made on or after that date.

## 21 **PART VI. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS**

22 **SECTION 6.(a)** G.S. 18B-1114.7(a) reads as rewritten:

23 "(a) Authorization. – The holder of a supplier representative permit, brokerage  
 24 representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous  
 25 liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at  
 26 ABC stores where the local ABC board has approved the tasting, trade shows, conventions,  
 27 shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local  
 28 fund-raisers, and other similar events approved by the Commission."

29 **SECTION 6.(b)** G.S. 18B-1114.7(b) reads as rewritten:

30 "(b) Limitations. – Any consumer tasting is subject to the following limitations:

31 ...

32 (3) Each consumer shall be limited to one ~~0.25 ounce tasting sample~~ tasting  
 33 sample containing 0.25 ounces of any product made available for sampling at  
 34 the consumer tasting, and the total amount of the tasting samples offered to  
 35 and consumed by each consumer shall not exceed 1.0 ounce of spirituous  
 36 liquor in any calendar day.

37 ...

38 (7) ~~A venue allowing tastings shall designate a tasting area within the venue that~~  
 39 ~~enables the permit holder to ensure that the consumer tasting is being~~  
 40 ~~conducted in compliance with this section. Consumers shall only be allowed~~  
 41 ~~to consume tasting samples within the designated tasting area.~~

42 ...

43 (11) For tastings conducted in an ABC store, the Commission shall adopt rules to  
 44 ensure that holders of distillery permits issued under G.S. 18B-1105 are  
 45 provided by local ABC boards reasonable opportunities to conduct tastings."

46 **SECTION 6.(c)** G.S. 18B-301(f)(1) reads as rewritten:

47 "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages  
 48 or to offer such beverages to another person at any of the following places:

49 a. ~~On~~ Unless a consumer tasting authorized by G.S. 18B-1114.7 is being  
 50 conducted, on the premises of an ABC store.  
 51

- 1                           b.     Upon any property used or occupied by a local board.
- 2                           c.     On any public road, street, highway, or sidewalk, unless a consumer
- 3                                 tasting authorized by G.S. 18B-1114.7 is being conducted."
- 4

5 **PART VII. RULES**

6                   **SECTION 7.** The Alcoholic Beverage Control Commission shall amend its rules  
7 consistent with the provisions of this act. The Commission may use the procedure set forth in  
8 G.S. 150B-21.1 to amend any rules as required under this section.

9

10 **PART VIII. SEVERABILITY CLAUSE**

11                   **SECTION 8.** If any provision of this act or its application is held invalid, the  
12 invalidity does not affect other provisions or applications of this act that can be given effect  
13 without the invalid provisions or application, and to this end the provisions of this act are  
14 severable.

15

16 **PART IX. EFFECTIVE DATE**

17                   **SECTION 9.** Except as otherwise provided, this act becomes effective July 1, 2019.